

FILED

IN THE UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO  
FOR THE DISTRICT OF NEW MEXICO

SEP 23 2003

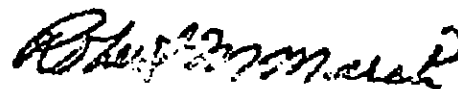
DAMACIO NUNEZ-PACHECO,

Petitioner,

v.

ALLEN COOPER,  
UNITED STATES OF AMERICA,

Respondent



Civ. No. 03-0505 MCA/RLP

MAGISTRATE JUDGE'S PROPOSED  
FINDINGS AND RECOMMENDED DISPOSITION<sup>1</sup>

1. This is a proceeding brought pursuant to 28 U.S.C. § 2241. Petitioner asserts that the Bureau of Prisons has not credited him with the 51 days of confinement he spent in a state facility. The Government has responded that Petitioner has failed to exhaust administrative remedies with the Bureau of Prisons. Petitioner has not filed a response to that assertion.

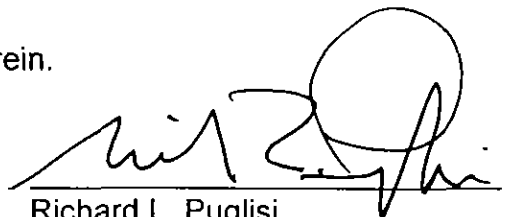
2. Federal district courts lack jurisdiction to award sentencing credits. *United States v. Jenkins*, 38 F.3d 1143, 1144 (10th Cir. 1994). Petitioner "must bring his request for sentence credit to the Bureau of Prisons in the first instance and thereafter seek judicial review of the Bureau's determination." *Id.*

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<sup>1</sup> Within ten (10) days after a party is served with a copy of the "Magistrate Judge's Proposed Findings and Recommended Disposition" (the "Proposed Findings") that party may, pursuant to 28 U.S.C. § 636 (b)(1), file written objections in the United States District Court to the Proposed Findings. A party must file any objections within the ten-day period allowed if that party wants to have appellate review of the Proposed Findings. If no objections are filed, no appellate review will be allowed.

RECOMMENDED DISPOSITION

I recommend that this proceeding be dismissed without prejudice to allow Petitioner to exhaust his administrative remedies as stated herein.

A handwritten signature in black ink, appearing to read 'Richard L. Puglisi', is written over a horizontal line.

Richard L. Puglisi  
United States Magistrate Judge